APPENDIX

Revenue Act of 1932, 47 Stat. 169:

SEC. 609. TAX ON SPORTING GOODS.

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: Tennis rackets, tennis racket frames and strings, nets, racket covers and presses, skates, snowshoes, skis, toboggans, canoe paddles, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and uniforms, basket ball goals and uniforms, golf bags and clubs, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games (except playing cards and children's toys and games); and all similar articles commonly or commercially known as sporting goods.

SEC. 621. CREDITS AND REFUNDS.

(a) A credit against tax under this title, or a refund, may be allowed or made—

(1) to a manufacturer or producer, in the amount of any tax under this title which has been paid with respect to the sale of any article (other than a tire or inner tube) purchased by him and used by him as material in the manufacture or production of, or as a component part of, an article with respect to which tax under this

title has been paid, or which has been sold free of tax by virtue of section 620, relating to sales of articles for further manufacture.

(2) to any person who has paid tax under this title with respect to an article, when the price on which the tax was based is readjusted by reason of return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance; in the amount of that part of the tax proportionate to the part of the price which is refunded or credited.

(b) Credit or refund under subsection (a) shall be allowed or made only upon compliance with regulations prescribed by the Commissioner with the approval of the Secretary.

(c) In no case shall interest be allowed with respect to any amount of tax under this title credited or refunded.

(d) No overpayment of tax under this title shall be credited or refunded (otherwise than under subsection (a)), in pursuance of a court decision or otherwise, unless the person who paid the tax establishes, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has repaid the amount of the tax to the ultimate purchaser of the article, or unless he files with the Commissioner written consent of such ultimate purchaser to the allowance of the credit or refund.

Treasury Regulations 46, promulgated under the Revenue Act of 1932:

> ART. 53.[3] *Scope of tax.*—The tax attaches to sales by the manufacturer of the articles enumerated in section 609 as well as to all similar articles commonly or commercially known as sporting goods, games, and parts of games (except playing cards and children's toys and games).
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> The term "sporting goods" includes all articles of the same general character as those specifically named, the purpose of which is primarily for use either indoors or outdoors in connection with a game or sport.
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> The term "game" includes games of skill or chance and every contrivance, device, or combination of articles which is designed to furnish sport, recreation, or amusement. Games of the type ordinarily played or used by adults, as distinguished from games designed for the use of children, are subject to the tax.
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> ART. 54. *Sporting goods.*—The following list, while not exhaustive, is illustrative of the type of articles subject to tax as sporting goods: All paraphernalia, equipment, and uniforms specially designed for or commonly used in athletic contests, archery, baseball, football, basketball, cricket, curling, and similar games or contests, canoeing, bowling, noncommercial fishing (whether or not designed for, or commonly used in, commercial fishing), fencing, tennis, golf, boxing, etc.
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> ART. 55. *Games.*—Among the articles subject to tax as games are dice, chess and

[3] This regulation was amended in 1938 in a manner not material herein. T. D. 4853, 1938-2 Cum. Bull. 383.

checker sets, ping-pong sets, roulette wheels, backgammon sets, etc.

Parts of games are subject to the tax in the same manner as games.

ART. 71. *Credits and refunds.*—

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If any person overpays the tax due with one monthly return, he may either file a claim for refund on Form 843 or take credit for the overpayment against the tax due with any subsequent monthly return. In all cases (except those referred to in section 621 (a), discussed under the preceding paragraphs of this article) where a person overpays tax, no credit or refund shall be allowed, whether in pursuance of a court decision or otherwise, unless the taxpayer files a sworn statement explaining satisfactorily the reason for claiming the credit or refund and establishing (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has either repaid the amount of the tax to the ultimate purchaser of the article or has secured the written consent of such ultimate purchaser to the allowance of the credit or refund. In the latter case the written consent of the ultimate purchaser must accompany the sworn statement filed with the credit or refund claim. The statement supporting the credit or refund claim must also show whether any previous claim for credit or refund covering the amount involved, or any part thereof, has been filed with the collector or Commissioner.

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